

COUNTY OF KAUAI
Minutes of Meeting
Open Session

Board/Committee:	LIQUOR CONTROL COMMISSION	Meeting Date	October 5, 2017
Location	Mo'ikeha Building, Meeting Room #3	Start of Meeting: 4:05 p.m.	End of Meeting: 5:01 p.m.
Present	Chair Jean Iida; Vice Chair William Gibson; Members: Shirley Akita, Paul Endo, Maryanne Kusaka, Gerald Matsunaga, Gary Pacheco Also: Liquor Control Staff: Liquor Control Investigator IV Cecilio Baliaris, Private Secretary Cherisse Zaima; Deputy County Attorney Mahealani Krafft		
Excused			
Absent			

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SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Iida called the meeting to order at 4:05 p.m. with 7 members present, constituting a quorum.
Roll Call	Liquor Control Investigator IV Cecilio Baliaris called roll, noting 7 members were present.	
Approval of the Agenda		Mr. Matsunaga moved to approve the agenda. Ms. Akita seconded the motion. Motion carried 7:0.
Public Hearing	<p>1. <u>NEW LIQUOR LICENSE:</u></p> <p>a) <u>OPAKAPAKA GRILL AND BAR:</u></p> <p>Commissioner Akita suggested that due to the opposition received on this application, this item should be moved to the end of the hearings agenda.</p>	Ms. Akita moved to for Item 1(a) to be taken as the last item on the public hearing agenda. Mr. Matsunaga seconded the motion. Motion carried 7:0.

	<p>b) <u>ISLAND COUNTRY MARKETS</u>: Application No. 2018-019 was filed on July 25, 2017 by MNS, Ltd. dba Island Country Markets for a New Retail Dealer General license at 4-484 Kūhi'ō Highway, Kapaa, Kauai, Hawaii.</p> <p>Mr. Paul Kosasa, President and CEO of MNS, Ltd. was present along with Mr. Jonathan Dahilag, General Manager.</p> <p>Mr. Kosasa pointed out a correction to be made on the investigators report regarding Director Stephen Tajima, who has since retired, and should be removed.</p> <p>There were no objections to the application.</p> <p>Mr. Kosasa stated that the Coconut Marketplace in Kapaa was a distressed property, and the goal of MNS, Ltd. was to revive it, and make it successful, which they feel they have accomplished.</p> <p>Commissioner Endo asked if this store is similar to the one in Waikoloa on Maui to which Mr. Kosasa replied yes, it is similar, but smaller. This store will have a full service deli, take-out meals, brewed coffee, etc., and retail liquors. He noted that while it is geared toward visitors, he feels many local residents will also come by.</p> <p>Commissioner Matsunaga asked how MNS, Ltd. is tied in with SMK to which Mr. Kosasa explained that SMK is a subsidiary of MNS, Ltd. and serves as the real estate entity of the company.</p> <p>Commissioner Kusaka commented to express her appreciation to MNS, Ltd. for what they have done for the island. She noted that the property really needed to come alive again, and she hopes they are very successful.</p>	
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	<p>Commissioner Akita added that she has noticed they are sprucing up the entire shopping center, which makes a big difference. Mr. Kosasa stated their goal for the marketplace is to tenant it with as many local Kauai businesses as possible.</p> <p>The public hearing for Application No. 2018-019 was closed</p>	<p>Ms. Akita moved to approve Application No. 2018-019. Ms. Kusaka seconded the motion. Motion carried 7:0.</p>
	<p>c) <u>BAMBOO GRILL</u>: Application No. 2018-021 was filed on July 27, 2017 by R. Ogata LLC dba Bamboo Grill for a New Restaurant General (Live music and dancing) license at 3-5350 Kūhi'ō Highway, Wailua, Kauai, Hawaii. The Commission accepted Application No. 2018-021 for publication and public hearing on August 3, 2017 and ordered to print notices of public hearing in The Garden Island newspaper on Wednesdays, August 9 & 16, 2017, scheduling the public hearing on Thursday, October 5, 2017 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Moikeha Building, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i.</p> <p>Mr. Richie Ogata, owner, was present.</p> <p>There were no objections to the application.</p> <p>In response to the Commission's questions, Mr. Ogata stated he is hoping to open the restaurant on Sunday, October 8, but noted the snack bar is currently open.</p> <p>Commissioner Matsunaga asked why the hours of operation begin at 7:00 a.m., noting that many golfers have expressed interest in having breakfast before playing golf. Mr. Ogata replied the hours of operation for the</p>	

	<p>restaurant will be 7:00 a.m. to 9:00 p.m., and the snack bar is open from 7:00 a.m. to 2:00 p.m.</p> <p>Commissioner Akita noted that since there is no 19th hole, and many golfers may be creating their own 19th hole in the parking lot, how will that be policed. Mr. Ogata replied that is something he is trying to work out with County Parks and Recreation as the golf course property is a County facility. He is currently working with the Superintendent of Parks, who will be trying to assist in marshalling the area.</p> <p>Commissioner Pacheco noted that currently the days are getting shorter, and sunrise happens later in the day, so the current hours of operation for the restaurant are okay. However, when summer comes and the days are longer, and the sun rises earlier, he asked whether the restaurant hours will begin earlier for the early-bird golfers. Mr. Ogata replied his current staffing issue prevents that, but if he is able to employ enough staff, he will be able to accommodate longer hours.</p> <p>The public hearing on Application No. 2018-021 was closed.</p>	<p>Mr. Pacheco moved to approve to approve Application No. 2018-021. Mr. Gibson seconded the motion. Motion carried 7:0.</p>
	<p>2. <u>CHANGE OF LOCATION:</u></p> <p>d) <u>SOUTHERN GLAZER'S OF HI/SGWS</u>: Application No. 2018-018 was filed on July 26, 2017 by Southern Glazer's Wine and Spirits, LLC dba Southern Glazer's of HI/SGWS for a change of location of Wholesale General License No. 3G-005 from 4234 Hanahao Place, Līhu'e, Kauai, Hawaii to 1556 Haleukana Street, Līhu'e, Kauai, Hawaii. The Commission accepted Application No. 2018-018 for publication and public hearing on August 3, 2017 and ordered to print notices of public hearing in The Garden Island newspaper on Wednesdays, August 9 & 16, 2017, scheduling the public hearing on</p>	

	<p>Thursday, October 5, 2017 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Moikeha Building, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i.</p> <p>Mr. Kenneth Hoo, counsel along with Operations Manager Steve Perry were present.</p> <p>Mr. Hoo pointed out two clarifications to the Investigator's report, noting the following corrections: On page 1, paragraph two it stated the square footage of the building is 40, 190 square feet, which is actually the size of the entire lot. The building itself is 24,574 square feet. On the bottom of page 1, there is a typographical error in the spelling of the third to the last manager, and should read Michael Scott Glazer.</p> <p>There were no objections to this application.</p> <p>Mr. Perry stated that they have been here for 20 years, and this will be their fourth and hopefully last move.</p> <p>Commissioner Matsunaga asked to clarify that they are basically moving from one portion of the industrial area to another to which Mr. Hoo replied yes. He further explained that they are already currently using that location under and off-premise warehousing permit, and this change of location will just move the license from one location to the other. The second off-premise warehousing location they have will no longer be used, and that permit will be cancelled. The entire operation will all be contained in the new location.</p> <p>Mr. Perry explained that the new location is across the street from Harley's plate lunch restaurant.</p> <p>The public hearing on Application No. 2018-018 was closed.</p>	<p>Mr. Matsunaga moved to approve Application No. 2018-018. Ms. Kusaka seconded the</p>
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		motion. Motion carried 7:0.
	<p>2. <u>NEW LIQUOR LICENSE:</u></p> <p>e) <u>OPAKAPAKA GRILL AND BAR:</u> Application No. 2018-014 was filed on July 13, 2017 by Fraser Consulting Group LLC dba Opakapaka Grill and Bar for a New Restaurant General (Live entertainment and dancing) license at 5-7130 Kūhi'ō Highway, Hanalei, Kauai, Hawaii. The Commission accepted Application No. 2018-014 for publication and public hearing on August 3, 2017 and ordered to print notices of public hearing in The Garden Island newspaper on Wednesdays, August 9 & 16, 2017, scheduling the public hearing on Thursday, October 5, 2017 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Moikeha Building, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i.</p> <p>Mr. Gregg Fraser, President was present along with Ms. Laura Richards, General Manager of Hanalei Colony Resort.</p> <p>The applicant sent Notices of Public Hearing to 86 leasees of record within the 500' radius. The Commission received two (2) letters in support, and nine (9) letters in opposition to the application.</p> <p>Staff read a letter of testimony from Mr. Steven Drapkin into the record (on file).</p> <p>Commissioner Akita asked for clarification on the number of letters mailed out to the residents in the surrounding area. Investigator Baliaris replied 86 letters were sent; of the 86, 9 letters in opposition were received. Staff clarified that Mr. Drapkin is not representing all 86 residents, he is representing himself.</p>	

	<p>In response to Mr. Fraser and the Commission, Investigator Baliaris stated that Mr. Drapkin is within the 500' radius of the establishment.</p> <p>In response to Commissioner Akita, Mr. Fraser stated he received copies of some of the letters, but not all; some were received just prior to the hearing. He acknowledged his email exchange with Mr. Drapkin, and stated his efforts in trying to answer all of his questions.</p> <p>Mr. Fraser addressed the reference to the Grand Opening that was held on the 30th, stating music ended at 8:30, and everyone was out of the premises by 9:00. Another letter he received stated there were drunk people screaming and squealing. Mr. Fraser explained the average age of the party-goers was 55, and feels they were not responsible for the screaming. He added that he rents a house across the street, and he also heard the same screaming at around 2:00 a.m., which he thinks was coming from another drinking establishment in Hanalei that closes at around 2:00 a.m. He does not think it is fair that Opakapaka is blamed for this disturbance.</p> <p>Mr. Fraser stated he attempted to reply back to everyone that had sent him letters with an explanation of his plans. His intention is not to become a bar scene, noting his reputation as the Executive Director of the Hawaii Restaurant Association, and President of a consulting group in Honolulu. He has no desire to have a bar type ambiance in Wainiha, adding that he has lived in Hanalei as well as many other parts of the islands, and is cognizant of the peace and tranquility of the area, which he wants to maintain. Mr. Fraser added that his landlord owns a resort next door, which is located much closer than some of the neighbors, and he has promised to keep the peace and tranquility for everyone. The restaurant will serve breakfast, lunch and dinner with the intent to bring fresh seafood, farm-to-table, and locally sourced products from Kauai. Mr. Fraser stated he has been in the restaurant business in Hawaii for 40 years, he understands areas like Hā'ena and Wainiha, and is not trying to change anything.</p>	
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Mr. Fraser stated there may be music after 5:00 p.m., noting he is considering doing weddings, and possibly luaus in the future. He reminded the Commission that this is the same classification of license the previous owners held, and he is not trying to do anything devious.

Mr. Fraser explained that he has tried to reply to most of the letters, noting that his attorney recommended the discussion take place at the hearing, and to cease correspondence with Mr. Drapkin.

Ms. Laura Richards, General Manager of Hanalei Colony Resort, explained that they lease the property to Opakapaka Grill and Bar. She stated that she understands the concerns of the neighbors, and pointed out that the lease agreement with Opakapaka Grill and Bar includes restrictions, which are the same restrictions they had for the previous licensee, Mediterranean Gourmet; that restaurant had been operating there for the past 11 years. She noted that the lease allows for Opakapaka to have music 7 days a week, but must comply with “quiet enjoyment”, noting they did have luaus for 5 years that had not generated any complaints from the neighborhood. Ms. Richards stated there is security patrolling the parking lot every evening to alleviate any issues. Her understanding is that there were never any complaints against Mediterranean Gourmet, which held the same type of lease.

Mr. Fraser explained they are currently doing low-key music during pau-hana at the back corner of the bar. He pointed out the owner of the Hanalei Day Spa sitting in the audience, stating she does massages only 10 feet away from the restaurant, and would be the first one to tell him if any music was too loud; they have been playing music for about two weeks, and he does not think they have been disturbing anyone.

Commissioner Matsunaga addressed Ms. Fraser, asking for clarification on some of the lease conditions to address noise. Ms. Fraser explained live music is allowed and can be amplified, but must be at a level where customers can have conversations while having dinner, which is the type of music they have had for the past twelve to fourteen years. She further explained the lease agreement states all music must cease by 10:00 p.m. Mr. Fraser added that Opakapaka's kitchen shuts down at 9:00 p.m., and the bar closes at 9:30 p.m.

Commissioner Gibson asked Ms. Richards if she is aware of any complaints made against Mediterranean Gourmet, to which Ms. Richards stated she is not aware of any formal complaints. She added there may have been a couple over the years, but honestly feels the complaints were directed against her due to a wedding reception in the pool area of her resort.

In response to Commissioner Kusaka, Ms. Richards stated she does not know Mr. Drapkin, and he has not been to the property as far as she knows. Commissioner Kusaka commented that it is a lovely location, and is an amenity to the resort area, adding that when people come to Hawaii they like to enjoy music as long as it is at a reasonable level. She thinks some of the suggested conditions are over-bearing and a bit extreme, and would like to believe that Mr. Fraser has good common sense to honor the neighbors as well as provide enjoyment of that environment. She states she trusts that Mr. Fraser will not have music after 9:30 p.m., and sees nothing wrong with having outdoor parties in the early evening with minimal music. Mr. Fraser replied that is what was done at the Grand Opening, but held the event on the resort side, farthest away from the neighbors on the Hā'ena side. A tent was put up, which included walls to protect the neighbors from noise, noting the amplifier knob was set at 1. The outdoor event was held from 5:00 p.m. to 6:00 p.m., and then moved inside for a dinner show which was done by 9:00 p.m.

	<p>Commissioner Endo commented that he had dinner at Mediterranean Gourmet several years ago, where there was amplified contemporary guitar music and a vocalist. He noted the amplification was such that it provided great dinner music that he enjoyed, and feels if Mr. Fraser will be providing the same type of music, it should be pleasant.</p> <p>Mr. Fraser stated their intent is to have the music be an extension of the beautiful ambiance, although they are not set on whether or not they will be having dinner music yet.</p> <p>Mr. Jacques Pautrat, part owner of Kalypso restaurant in Hanalei stated that since Opakapaka has been open, they have heard only nice things about the restaurant.</p> <p>Commissioner Pacheco asked Mr. Fraser how he would feel about having a restriction on the license that prohibited amplified music. Mr. Fraser respectfully replied that in his experience, “unplugged” shows have been just as loud, if not louder. He pointed out that such a restriction would still allow for loud bongo drums, numerous guitars, horns, and other such loud instruments, noting that regardless of amplification, they are still required to keep the peaceful, tranquil experience for the guests and neighbors. He noted that some entertainers prefer amplifying at lower levels as it may be difficult to provide good vocals without it.</p> <p>Ms. Richards stated that Opakapaka’s dining area is quite large, noting the building as a whole is 5,000 square feet. She feels having no amplification would make it difficult. Mr. Fraser added two points to amplification, which included both volume level, and positioning of speakers to fill a room rather than blasting outward.</p> <p>Commissioner Matsunaga pointed out that all of the opposition has been related to the noise factor, adding that Commission counsel has pointed out</p>	
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	<p>the conditions of the lease agreement, which places restrictions on the noise. He feels comfortable that the provisions of the lease agreement will suffice.</p> <p>The public hearing on Application No. 2018-014 was closed.</p>	<p>Mr. Matsunaga moved to approve Application No. 2018-014. Ms. Kusaka seconded the motion. Motion carried 7:0.</p>
Approval of the Minutes	<u>APPROVAL OF THE MINUTES OF SEPTEMBER 21, 2017</u>	<p>Mr. Pacheco moved to approve minutes of September 21, 2017. Mr. Endo seconded the motion. Motion carried 7:0.</p>
1.	<p><u>DIRECTOR'S REPORT:</u></p> <p>a) <u>INVESTIGATORS' REPORTS</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <p>(1) From Avid Marketing Group</p> <p>(2) From Delicato Family Vineyards</p> <p>(3) From Jackson Family Enterprises</p> <p>(4) Disturbance Report from 9th Island Sports Bar & Grill</p> <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <p>(1) To Avid Marketing Group</p> <p>(2) To Delicato Family Vineyards</p> <p>(3) To Jackson Family Enterprises</p> <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u></p> <p>(1) BRENNECKE'S BEACH BROILER</p> <p>(2) KAUAI BEACH RESORT</p> <p>(3) LAVA LAVA BEACH CLUB</p> <p>(4) PRINCEVILLE WINE MARKET</p>	

	<p>(5) THE WINE GARDEN (6) THE WINE SHOP (7) INTERCRUISES SHORESIDE & PORT SERVICES (8) CONTRACTORS ASSOCIATION OF KAUAI (9) KAUAI HABITAT FOR HUMANITY (10) KAUAI CHAMBER OF COMMERCE</p> <p>f) <u>INFORMATIONAL MATTERS:</u></p>	<p>Mr. Endo moved to accept Items 1(a) through 1(f). Mr. Gibson seconded the motion. Motion carried 7:0.</p>
2.	<p><u>PERMANENT INCREASE OF PREMISES:</u></p> <p><u>BRENNECKE'S BEACH BROILER:</u> Request for permanent increase of premises to include the newly expanded rear second floor of the building to accommodate new ADA approved men's and ladies' restrooms, an ADA lift and new stair case totaling 861 square feet, per diagram submitted.</p> <p>Mr. David Boucher, General Manager, was present. He explained that the request of increase of premises is to include the newly constructed ADA facilities and accommodations.</p>	<p>Ms. Kusaka moved to approve the permanent increase of premises. Mr. Gibson seconded the motion. Motion carried 7:0.</p>
3.	<p><u>EXTENSION IN TIME TO EXERCISE LIQUOR LICENSE:</u></p> <p><u>LILIKOI BAR & GRILL:</u> Request for Extension in Time for a period of 6 months to exercise Application No. 2017-067 which was approved on April 20, 2017.</p> <p>Mr. Jacques Pautrat, owner, was present. He explained that it has been a long process to redesign the restaurant, and the permitting process has taken longer than anticipated; however, they are fairly close to getting the necessary permits.</p>	<p>Ms. Akita moved to approve the extension in time to exercise liquor license. Mr. Gibson seconded the motion. Motion carried 7:0.</p>

4.	<u>VIOLATION REPORT:</u> <u>BANGKOK HAPPY BOWL THAI BISTRO:</u> Violation of HRS 281-31(c)(1) Licenses, classes.	Ms. Akita moved to call licensee for violation hearing. Mr. Gibson seconded the motion. Motion carried 7:0.
Announcements	Next Scheduled Meeting: Thursday, October 19, 2017 – 4:00 pm, Mo'ikeha Building, Meeting Room #3.	
Adjournment		Chair Iida adjourned the meeting at 5:01 p.m.

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Jean Iida, Chair